

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: NEXGEN INTEGRATED COMMUNICATIONS, L.L.C.	DOCKET NO. A-2013-3418
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ORDER ASSESSING CIVIL PENALTY

(Issued August 29, 2014)

On July 23, 2014, the Iowa Utilities Board (Board) issued an order finding that NexGen Integrated Communications, L.L.C. (NexGen), was in violation of the Board's rule at 199 IAC 23.1(2) and Iowa Code §§ 476.10 and 477C.7. As a public utility as defined in Iowa Code § 476.1, NexGen is required to file with the Board on or before April 1 of each year an annual report pursuant to Board rule 23.1(2). NexGen is also required to pay its portion of the fiscal year 2013 remainder assessment billings pursuant to Iowa Code § 476.10 and its portion of the of the fiscal year 2013 dual party assessment reconciliation charges for the Iowa Dual Party Relay Service, as required by Iowa Code § 477C.7.

In the July 23 order, the Board reviewed NexGen's recent history of failing to file its annual report in a timely manner and observed that for several years it has been necessary for Board staff to contact NexGen regarding the filing. As of July 23, 2014, NexGen had not filed its annual report for 2013, despite having received a letter dated May 12, 2014, from Board staff alerting NexGen that the report was past

due. Also, as of July 23, 2014, NexGen had not paid its fiscal year 2013 Remainder Assessment Reconciliation Invoice (in the amount of \$945.37 due January 30, 2014), or its fiscal year 2013 Dual Party Assessment Reconciliation Invoice (in the amount of \$82.60 due December 20, 2013) despite multiple contacts from Board staff.

The Board found NexGen in violation of Board rule 23.1(2) and Iowa Code §§ 476.10 and 477C.7. The Board found these violations were significant, in light of NexGen's history of late filings. The July 23 order notified NexGen of the violations and explained that if the violations continued, the Board might assess a civil penalty for the violation, pursuant to Iowa Code § 476.51. The order allowed NexGen ten days from the date of the order to file the annual report for calendar year 2013 and to pay the past-due invoiced amounts. The order also allowed NexGen an opportunity to request a hearing if NexGen had any objection to the finding of a violation. NexGen did not request a hearing.

Ten days from the date of the order was August 2, 2014, a Saturday. As of Monday, August 4, 2014, NexGen had not filed the annual report or paid the past-due invoices. On August 8, Board staff contacted the company by e-mail to ask when the report would be filed and when the invoices would be paid. NexGen indicated it would file the report on August 8 and mail the check to pay the past-due invoices on August 8. NexGen filed the annual report using the Board's electronic filing system on August 8. The Board received the check on August 14, 2014.

NexGen failed to comply with the Board's July 23 order by failing to file the annual report until August 8 and failing to mail the check for the past-due invoices in a timely manner. Under these circumstances, the Board finds that NexGen was in violation of the Board's order for nine days, from August 5 through August 13, 2014.

Iowa Code § 476.51(1) provides that a public utility which, after written notice by the Board of a specific violation, violates the same provision of Iowa Code chapter 476, the same Board rule, or the same provision of a Board order, is subject to a civil penalty of not less than \$100 nor more than \$2,500 dollars per violation. Iowa Code § 476.51(3) provides that in the case of a continuing violation, each day a violation continues after the time specified for compliance in the written notice by the Board is a separate offense. Civil penalties are warranted in this case. NexGen has a history of failing to file its annual report on a timely basis and the Board has had to remind the company of its obligations even after the Board issued an order notifying the company of the violations. Pursuant to Iowa Code §§ 476.51(1) and 476.51(3), the Board will assess NexGen a civil penalty in the amount of \$900.

IT IS THEREFORE ORDERED:

1. NexGen Integrated Communications, L.L.C., is assessed a civil penalty of \$900 for failing to comply with the Board's July 23, 2014, order notifying the company it was in violation of 199 IAC 23.1(2) and Iowa Code §§ 476.10 and 477C.7, and setting a date for compliance.

2. Payment, in the form of a check made payable to the Iowa Utilities Board, should be forwarded to the Executive Secretary of the Iowa Utilities Board at 1375 East Court Avenue, Rm. 69, Des Moines, Iowa 50319-0069. Payment is due within 30 days of the date of this order. The docket number listed on this order shall be listed on the check or in the accompanying correspondence.

UTILITIES BOARD

/s/ Elizabeth S. Jacobs

/s/ Nick Wagner

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Sheila K. Tipton

Dated at Des Moines, Iowa, this 29th day of August 2014.